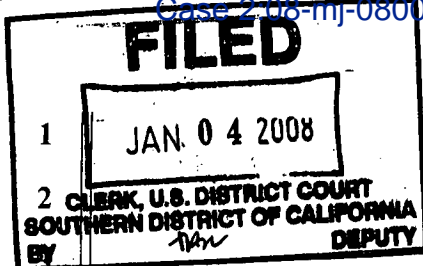


J
0050

UNITED STATES OF AMERICA

'08 MJ 8002

SOUTHERN DISTRICT OF CALIFORNIA

4 UNITED STATES OF AMERICA) Magistrate Case No.:
 5)
 6 Plaintiff) COMPLAINT FOR VIOLATION OF
 7 V)
 8 Mario PENA Marquez) Title 8, U.S.C., Sec., 1326
 9)
 10 Defendant) Attempted Entry After Being
 11) Ordered Deported/Removed
 12)

13 The undersigned complainant, being duly sworn, states:

14 On January 3, 2008, within the Southern District of
 15 California, the defendant Mario PENA Marquez, an alien, who
 16 previously had been excluded, deported and removed from the
 17 United States to Mexico, attempted to enter the United States
 18 with the purpose, i.e., conscious desire, to enter the United
 19 States at the Calexico Port of Entry without the Attorney General
 20 of the United States or his designated successor, the Secretary
 21 of the Department of Homeland Security (Title 6, United States
 22 Code, Sections 202(3) and (4), and 557), having expressly
 23 consented to the defendant's reapplication for admission into the
 24 United States; in violation of Title 8, United States Code,
 25 Section 1326.

26 And the complainant states that this complaint is based on
 27 the attached statement of facts which is incorporated herein by
 28 reference.

Figueroa
 IZABEL FIGUEROA, CBP
 Enforcement Officer

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS DATE 4TH
 DAY OF JANUARY, 2008.

Peter C. Lewis
 PETER C. LEWIS
 UNITED STATES MAGISTRATE JUDGE

1 UNITED STATES OF AMERICA

2 v

3 Mario PENA Marquez

4 **STATEMENT OF FACTS**

5 The complainant, states that this complaint is based upon
6 the arrest reports of the apprehending officers and the
7 investigation report submitted by Customs Border Protection
8 Enforcement Officer Gustavo Barreto.

9 On January 3, 2006, at approximately 04:00 A.M., the
10 defendant Mario PENA Marquez arrived at the Calexico Port of
11 Entry via pedestrian primary lanes. Customs Border Protection
12 Officer (CBPO) J. Carp inspected the defendant at the time he
13 applied for entry into the United States. The defendant
14 presented a counterfeit I-551. CBPO J. Carp. Suspected fraud and
15 thus referred the defendant to pedestrian secondary office for
16 further inspection.

17 In secondary inspection CBPO J. Duffy conducted routine
18 record checks in which IDENT revealed a possible fingerprint
19 match with a person who had been previously deported. PENA-
20 Marquez was escorted to the Port Enforcement Team office for
21 further investigation. Records confirmed that PENA-Marquez is an
22 alien, a native and citizen of Mexico with no legal documents to
23 enter into or be in the United States. PENA-Marquez was advised
24 of his Miranda warnings in the Spanish language to which he said
25 he understood and would answer questions without an attorney
26 present.

27 Mario PENA Marquez stated that he is a citizen and national
28 of Mexico with no legal entry documents to enter, reside, or pass
through the United States. PENA-Marquez stated that he had not
applied for or obtained the authorization of the Attorney General
of the United States or the Secretary of the Department of
Homeland Security to reapply for admission to enter the United
States. Mario PENA Marquez admitted to being previously deported
by an Immigration Judge. Mario PENA Marquez stated that he wanted
to go to Calexico to work.